DIVORCE — JUDICIAL SEPARATION — PETITIONER'S ADULTERY AS DEFENSE — EFFECT OF RESPONDENT'S CONNIVANCE. — A decree of dissolution on the ground of the wife's adultery was refused because of the petitioner's own conduct conducing to her acts. The wife then sought a judicial separation on the ground of cruelty. The Divorce Court granted the decree. On appeal, *held*, that the wife's adultery is an absolute bar to a decree of judicial separation. *Everett* v. *Everett*, 121 L. T. R. 503 (Court of Appeal).

The petitioner on his return from foreign service found his wife living in adultery under such conditions as to endanger the health and morals of his own children by her. He removed the children to the home of a friend, with whom he later had intercourse. He desires a divorce in order to marry this second woman, who appears to be making a good home for his children. A decree *nisi* for dissolution having been granted, the King's Proctor intervened, asking that the decree be dismissed. But the court in the exercise of its discretion *held*, that the decree be made absolute. *Wilson* v. *Wilson*, 36 T. L. R. 91 (Prob. Div. & Adm. Div.).

The respondent wife was incited to adultery by the petitioner, who himself was guilty of adultery down to the time of the petition. The court being convinced that the respondent will later marry the corespondent, who appears worthy and sober, *held*, that a decree *nisi* issue and the respondent be given custody of the children. *Marven* v. *Marven*, 36 T. L. R. 106 (Prob. Div. & Adm. Div.).

Adultery of the petitioner is ordinarily a bar to a decree for judicial separation. *Hawkins* v. *Hawkins*, 193 N. Y. 409, 86 N. E. 468; *Otway* v. *Otway*, 13 P. D. 141. But where the petitioner's adultery has been condoned by the respondent there is authority under which the Court of Appeal in the Everett case might have granted the decree of separation. *Anichini* v. *Anichini*, 2 Curt. 210. See 20 & 21 VICT. c. 85, § 22. *Cf.* DRAFT ACT COM'RS UNIFORM STATE LAWS, ANNULMENT OF MARRIAGE & DIVORCE, § 5 (1907). Failure to do so drives the wife back to a life of prostitution under the husband's orders. A better result is reached by the lower court in the other two cases where decrees of dissolution issued. For in most jurisdictions after such an absolute divorce remarriage is open even to guilty parties. See 20 & 21 VICT. c. 85, § 57. See also STIMSON, AM. STAT. LAW, § 6241; BISHOP, MAR., DIV. & SEP., § 706. But see *People* v. *Baker*, 76 N. Y. 78. Moreover, there is authority to support these two decisions where the petitioner's adultery was condoned. *Cumming* v. *Cumming*, 135 Mass. 386; *Jones* v. *Jones*, 18 N. J. Eq. 33; *Burdon* v. *Burdon*, [1901] P. 52. See TIFFANY, DOM. REL., § 108. Such a plea as adultery by way of recrimination fails when it does not itself show sufficient grounds for a divorce. *House* v. *House*, 131 N. C. 140, 42 S. E. 546. Certainly the connivance appearing in the principal cases should be as destructive to a recriminatory plea as mere condonation.

EQUITY — JURISDICTION — RIGHT OF A MINOR CHILD TO MAINTENANCE BY FATHER. — The defendant had abandoned his wife and minor children. The children, by their next friend, bring a bill in equity requesting a monthly allowance for maintenance, and that the same be made a lien upon the defendant's property. *Held*, that the bill be dismissed. *Rawlings* v. *Rawlings*, 83 So. 146 (Miss.).

At common law the duty of a father to support his infant child was regarded as a mere moral obligation. See *Shelton* v. *Springett*, 11 C. B. 452, 455; *Bazeley* v. *Forder*, L. R. 3 Q. B. 559, 565. This duty has been enforced indirectly by holding the father liable, by a fiction of implied authority to those who supply the children with necessaries. *Walters* v. *Niederstadt*, 194 S. W. 514 (Mo.). See 10 HARV. L. REV. 454. In equity the court may decree maintenance out of the child's separate estate if the father is unable to provide satisfactory

support. *Bedford* v. *Bedford*, 136 Ill. 354, 26 N. E. 662. See *Buckworth* v. *Buckworth*, 1 Cox, 80, 81. But in no instance would equity compel a father to maintain his child, for no legal obligation was recognized. But more recently many courts have declared that the father is under a legal duty to support his minor children. *Porter* v. *Powell*, 79 Iowa 151, 44 N. W. 295. See *Treasurer & Receiver General* v. *Sermini*, 229 Mass. 248, 251, 118 N. E. 331. See also 9 HARV. L. REV. 488. The dissenting opinion in the principal case contends that equity should act, since the law gives no remedy for the violation of this new legal duty. But it would seem that this is not a relative duty but an absolute one, for which there is properly no correlative legal right. See 1 AUSTIN, JURISPRUDENCE, 4 ed., 67, 413; Langdell, "A Brief Survey of Equity Jurisdiction," 1 HARV. L. REV. 55. The law is well settled in accordance with the majority opinion that equity will not order a father to provide maintenance in the absence of an express statutory enactment. *Huke* v. *Huke*, 44 Mo. App. 308. See *Alling* v. *Alling*, 52 N. J. Eq. 92, 96; 27 Atl. 655, 657. The dissent is interesting as illustrative of a recurring tendency to identify law and morals.

EQUITY — PROCEDURE — CROSSBILL IN EQUITY ADDING NEW PARTIES. — The assignee of a real estate mortgage brought action thereon against a purchaser of the property who had assumed the debt. The defendant filed a counterclaim against the plaintiff for damages resulting from fraud practiced in inducing him to purchase the property, and a demand on the same account against several new parties alleged to have participated in the fraud. The Kansas statutes allowed new parties to be brought in by counterclaim, but the defendant had not complied with the statutory provisions. (1915 KAN. GEN. STAT., §§ 6930, 6991.) *Held*, that the parties were properly joined. *Davies* v. *Lutz*, 185 Pac. 45 (Kan.).

The flat rule that new parties may never be joined by a crossbill has been laid down in many cases, on the theory that the defendant may bring in only parties necessary to the complaint, and this he must do by objection for nonjoinder. *Patton* v. *Marshall*, 173 Fed. 350; *Richman* v. *Donnell*, 53 N. J. Eq. 32, 30 Atl. 533 (discredited by *Green* v. *Stone*, 54 N. J. Eq. 387, 34 Atl. 1099); *Perea* v. *Harrison*, 7 N. M. 666, 41 Pac. 529. There is a tendency in the later cases to allow new parties by crossbill when, as in the principal case, the new parties are necessary to the relief sought against the complainant by the crossbill, or to a complete determination of the questions raised by it. *Ulman* v. *Iaeger*, 155 Fed. 1011; *Indian River Mfg. Co.* v. *Wooten*, 48 Fla. 271, 37 So. 731; *Green* v. *Stone*, *supra*. A crossbill which sets up matter not pertinent to that of the original bill and seeks no relief against the complainant, should be dismissed for want of equity. *Andrews* v. *Hobson's Adm'r*, 23 Ala. 219; *Daniel* v. *Morrison*, 6 Dana, 182; *Josey* v. *Rogers*, 13 Ga. 478. This on principle should be the test of any crossbill, regardless of whether new parties are sought to be added by it or not. In the majority of the cases laying down the rule that new parties may never be thus added, the same result would have been reached under this test. It was easy for the court in the principal case to reach the proper result because of the liberalization of the common-law rule as to new parties in the Kansas statutes cited. *Cf.* 31 HARV. L. REV. 1034.

FOREIGN CORPORATIONS — VALIDITY OF SERVICE ON AGENT FOR FOREIGN CAUSE OF ACTION AFTER WITHDRAWAL FROM STATE. — A foreign corporation, doing business in New York, appointed an agent for receiving service on it, as required by statute. (CODE CIV. PRO., § 1780; GEN. CORP. L. §§ 16, 432.) Prior to this suit, the corporation had withdrawn from the state, but had failed to revoke the agent's authority. The plaintiff served the agent on a